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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,229	07/18/2002	Jari Natunen	0933-0185P	2480
2292	7590	04/06/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			HENRY, MICHAEL C	
			ART UNIT	PAPER NUMBER
			1623	

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/089,229	<b>Applicant(s)</b> NATUNEN, JARI	
	<b>Examiner</b> Michael C. Henry	<b>Art Unit</b> 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

The following office action is a responsive to the Amendment filed, 01/15/04.

The amendment filed 01/15/05 affects the application, 10/089,22 as follows:

1. Claims 1-18 have been cancelled. Claims 19-40 have been added. This leaves claims 19-40.
2. Applicant responds to the rejection under 35 USC 102 by canceling claim 1-18.
3. The responsive to applicants' arguments is contained herein below.

#### *Claim Objections*

Claims 1 and 30 are objected to because of the following informalities: The claims contains brackets which implies an uncertainty as to whether the phrase in brackets are necessarily required in the claims. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 19 and 30 recites the phrase "i.e. monosaccharide 1" and "i.e monosaccharide 2". However, the claim is indefinite because it is unclear whether the monosaccharide 1 and monosaccharide 2 should be included in the claim since it is represented as an example. More specifically, this phrase is vague and indefinite and, one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: The examiner has found claims 19-40 to be unobvious over the prior art of record and therefore to be allowable over the prior art of record provided the 112 rejections are overcome, and appropriate claims are written in a form independent of a rejected claim. The present invention relates to oligosaccharides having a given formula or oligosaccharide containing compounds including N-acetylated oligosaccharides which are fucosylated and optionally covalently bound to a carrier molecule and a process for preparing said compounds, and the process of preparing said oligosaccharide. The very relevant prior art document (US 6,319,695) to this invention discloses oligosaccharides or oligosaccharide containing compounds including N-acetylated oligosaccharides which are fucosylated.

However, though the compounds of the present invention are similar to those claimed in the prior art document, they possess structural differences (including different monosaccharides and substituents) that are unobvious to those of the prior art.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Henry whose telephone number is 571-272-0652. The examiner can normally be reached on 8:30 am to 5:00 pm; Mon-Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703 872-9306.

Application/Control Number: 10/089,229


Page 4

Art Unit: 1623

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

MCH

April 2, 2004.

  
SAMUEL BARTS  
PRIMARY EXAMINER  
GROUP 1800